

NOT FOR PUBLICATION

(Doc. No. 12)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CAMDEN VICINAGE**

KEITH E. LECLAIRE

Plaintiff

v.

HECTOR A. HADDOCK and
EAST COAST BULK CORP.

Defendants.

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Civil No. 11-7637 (RBK/KMW)

ORDER

THIS MATTER having come before the Court upon Plaintiff Keith E. LeClaire's ("Plaintiff") motion for default judgment pursuant to Fed. R. Civ. P. 55(b)(2); and

IT APPEARING TO THE COURT that Plaintiff served Defendants in this matter with a Complaint and Summons via substituted service as ordered by the Court on December 17, 2012 (Doc. No. 10); and

IT FURTHER APPEARING TO THE COURT that such substituted service was executed on December 21, 2012 (*see* Affidavit of Service, Doc. No. 11); and

IT FURTHER APPEARING TO THE COURT that Defendants did not file an answer to Plaintiff's Complaint within the 21-day time period for a responsive pleading under Fed. R. Civ. P. 12(a)(1)(A)(i); and

IT FURTHER APPEARING TO THE COURT that Plaintiff did not seek an entry of default from the clerk of court under Fed. R. Civ. P. 55(a) after Defendants failed to plead or otherwise defend in this matter; and

IT FURTHER APPEARING TO THE COURT that, since Plaintiff filed the instant motion for default judgment, Defendants have filed their Answer to Plaintiff's Complaint (Doc. No. 13); and

THE COURT NOTING that a party seeking relief under Fed. R. Civ. P. 55(b)(2) must first obtain an entry of default from the clerk of court under Fed. R. Civ. P. 55(a) as a precondition of obtaining a default judgment (*see Doug Brady, Inc. v. New Jersey Bldg. Laborers Statewide Funds*, 250 F.R.D. 171, 177 (D.N.J. 2008) (citing *Nationwide Mutual Ins. Co. v. Starlight Ballroom Dance Club, Inc.*, 175 Fed. App'x 519, 521 n.1 (3d Cir. 2006)));

IT IS HEREBY ORDERED that Plaintiff's motion for default judgment is **DENIED**.

Dated: 2/8/2013

/s/ Robert B. Kugler
ROBERT B. KUGLER
United States District Judge